

House Study Bill 233 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON SANDS)

A BILL FOR

1 An Act relating to the corporate income tax by creating an
2 alternative base income tax and an alternative unrelated
3 business income tax imposed at the election of the taxpayer
4 and including effective date and retroactive applicability
5 provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 422.21, subsection 1, Code 2013, is
2 amended to read as follows:

3 1. Returns shall be in the form the director prescribes,
4 and shall be filed with the department on or before the last
5 day of the fourth month after the expiration of the tax year.
6 However, cooperative associations as defined in section 6072(d)
7 of the Internal Revenue Code shall file their returns on or
8 before the fifteenth day of the ninth month following the close
9 of the taxable year and nonprofit corporations subject to
10 the unrelated business income tax imposed by section 422.33,
11 subsection 1A, or section 422.33A, subsection 3A, shall file
12 their returns on or before the fifteenth day of the fifth
13 month following the close of the taxable year. If, under the
14 Internal Revenue Code, a corporation is required to file a
15 return covering a tax period of less than twelve months, the
16 state return shall be for the same period and is due forty-five
17 days after the due date of the federal tax return, excluding
18 any extension of time to file. In case of sickness, absence,
19 or other disability, or if good cause exists, the director may
20 allow further time for filing returns. The director shall
21 cause to be prepared blank forms for the returns and shall
22 cause them to be distributed throughout the state and to be
23 furnished upon application, but failure to receive or secure
24 the form does not relieve the taxpayer from the obligation of
25 making a return that is required. The department may as far as
26 consistent with the Code draft income tax forms to conform to
27 the income tax forms of the internal revenue department of the
28 United States government. Each return by a taxpayer upon whom
29 a tax is imposed by section 422.5 shall show the county of the
30 residence of the taxpayer.

31 Sec. 2. NEW SECTION. **422.33A Corporate tax imposed —**
32 **alternative base income tax.**

33 1. For purposes of this section:

34 a. "*Base income*" means the taxable income before the net
35 operating loss deduction, as properly computed for federal

1 income tax purposes under the Internal Revenue Code, less
2 interest and dividends from federal securities.

3 *b.* The word "*manufacture*" shall include the extraction and
4 recovery of natural resources and all processes of fabricating
5 and curing.

6 *c.* The word "*sale*" shall include exchange.

7 *d.* "*Tangible personal property*" means corporeal personal
8 property, such as machinery, tools, implements, goods, wares,
9 and merchandise. "*Tangible personal property*" does not mean
10 money deposits in banks, shares of stock, bonds, notes,
11 credits, or evidence of an interest in property and evidences
12 of debt.

13 2. Notwithstanding any other provision of law, a
14 corporation may, in lieu of the taxes imposed under section
15 422.33, elect to be subject to state income tax as imposed and
16 computed pursuant to subsections 3 and 4. Such election must
17 be made not later than the due date for filing the return for
18 a taxable year, including extensions thereof, and under rules
19 to be prescribed by the director. An election by a member of
20 an affiliated group filing a consolidated return pursuant to
21 section 422.37 shall not be effective unless such election is
22 made by all members of the affiliated group.

23 3. A tax is imposed annually upon each corporation doing
24 business in this state, or deriving income from sources within
25 this state, and making an election under subsection 2, which
26 tax shall be levied, collected, and paid annually in an amount
27 equal to the base income of the corporation times six percent.

28 4. There is imposed upon each corporation exempt from
29 the general business tax on corporations by section 422.34,
30 subsection 2, and making an election under subsection 2 of this
31 section, a tax in an amount equal to the state's apportioned
32 share computed in accordance with subsections 5 and 6 of the
33 unrelated business income computed in accordance with the
34 Internal Revenue Code, less interest and dividends from federal
35 securities, times six percent.

1 5. If the trade or business of the corporation is carried
2 on entirely within the state, the tax shall be imposed on the
3 entire base income, but if the trade or business is carried
4 on partly within and partly without the state or if income
5 is derived from sources partly within and partly without the
6 state, or if income is derived from trade or business and
7 sources, all of which are not entirely in the state, the
8 tax shall be imposed only on the portion of the base income
9 reasonably attributable to the trade or business or sources
10 within the state, with the base income attributable to the
11 state to be determined as follows:

12 a. Nonbusiness interest, dividends, rents and royalties,
13 less related expenses, shall be allocated within and without
14 the state in the following manner:

15 (1) Nonbusiness interest, dividends, and royalties from
16 patents and copyrights shall be allocable to this state if the
17 taxpayer's commercial domicile is in this state.

18 (2) Nonbusiness rents and royalties received from real
19 property located in this state are allocable to this state.

20 (3) Nonbusiness rents and royalties received from tangible
21 personal property are allocable to this state to the extent
22 that the property is utilized in this state; or in their
23 entirety if the taxpayer's commercial domicile is in this state
24 and the taxpayer is not taxable in the state in which the
25 property is utilized. The extent of utilization of tangible
26 personal property in a state is determined by multiplying the
27 rents and royalties by a fraction, the numerator of which is
28 the number of days of physical location of the property in the
29 state during the rental or royalty period in the taxable year
30 and the denominator of which is the number of days of physical
31 location of the property everywhere during all rental or
32 royalty periods in the taxable year. If the physical location
33 of the property during the rental or royalty period is unknown
34 or unascertainable by the taxpayer, tangible personal property
35 is utilized in the state in which the property was located at

1 the time the rental or royalty payor obtained possession.

2 (4) Nonbusiness capital gains and losses from the sale or
3 other disposition of assets shall be allocated as follows:

4 (a) Gains and losses from the sale or other disposition
5 of real property located in this state are allocable to this
6 state.

7 (b) Gains and losses from the sale or other disposition of
8 tangible personal property are allocable to this state if the
9 property had a situs in this state at the time of the sale or
10 disposition or if the taxpayer's commercial domicile is in this
11 state and the taxpayer is not taxable in the state in which the
12 property had a situs.

13 (c) Gains and losses from the sale or disposition of
14 intangible personal property are allocable to this state if the
15 taxpayer's commercial domicile is in this state.

16 b. Base nonbusiness income of the above class having
17 been separately allocated and deducted as above provided,
18 the remaining base business income of the taxpayer shall be
19 allocated and apportioned as follows:

20 (1) Business interest, dividends, rents, and royalties
21 shall be reasonably apportioned within and without the state
22 under rules adopted by the director.

23 (2) Capital gains and losses from the sale or other
24 disposition of assets shall be apportioned to the state based
25 upon the business activity ratio applicable to the year the
26 gain or loss is determined if the corporation determines Iowa
27 taxable income by a sales, gross receipts, or other business
28 activity ratio. If the corporation has only allocable income,
29 capital gains and losses from the sale or other disposition of
30 assets shall be allocated in accordance with paragraph "a",
31 subparagraph (4).

32 (3) Where income is derived from business other than the
33 manufacture or sale of tangible personal property, the income
34 shall be specifically allocated or equitably apportioned within
35 and without the state under rules of the director.

1 (4) Where income is derived from the manufacture or sale of
2 tangible personal property, the part attributable to business
3 within the state shall be in that proportion which the gross
4 sales made within the state bear to the total gross sales.

5 (5) Where income consists of more than one class of income
6 as provided in subparagraphs (1) to (4) of this paragraph, it
7 shall be reasonably apportioned by the business activity ratio
8 provided in rules adopted by the director.

9 (6) The gross sales of the corporation within the state
10 shall be taken to be the gross sales from goods delivered
11 or shipped to a purchaser within the state regardless of
12 the F.O.B. point or other conditions of the sale, excluding
13 deliveries for transportation out of the state.

14 6. If any taxpayer believes that the method of allocation
15 and apportionment hereinbefore prescribed, as administered
16 by the director and applied to the taxpayer's business, has
17 operated or will so operate as to subject the taxpayer to
18 taxation on a greater portion of the taxpayer's base income
19 than is reasonably attributable to business or sources within
20 the state, the taxpayer shall be entitled to file with the
21 director a statement of the taxpayer's objections and of such
22 alternative method of allocation and apportionment as the
23 taxpayer believes to be proper under the circumstances with
24 such detail and proof and within such time as the director
25 may reasonably prescribe; and if the director shall conclude
26 that the method of allocation and apportionment theretofore
27 employed is in fact inapplicable and inequitable, the director
28 shall redetermine the taxable income by such other method of
29 allocation and apportionment as seems best calculated to assign
30 to the state for taxation the portion of the income reasonably
31 attributable to business and sources within the state, not
32 exceeding, however, the amount which would be arrived at by
33 application of the statutory rules for apportionment.

34 7. Notwithstanding any other provision of law, a
35 corporation making an election under subsection 2 shall not

1 be allowed any nonrefundable or refundable credit otherwise
2 allowable under this division for the tax year for which the
3 election is made, except for the credit for estimated tax paid
4 under section 422.91.

5 Sec. 3. Section 422.34A, subsection 8, Code 2013, is amended
6 to read as follows:

7 8. Utilizing a distribution facility within this state,
8 owning or leasing property at a distribution facility within
9 this state that is used at or distributed from the distribution
10 facility, or selling property shipped or distributed from
11 a distribution facility. For purposes of this subsection,
12 "*distribution facility*" means an establishment where shipments
13 of tangible personal property are processed for delivery
14 to customers. "*Distribution facility*" does not include an
15 establishment where retail sales of tangible personal property
16 or returns of such property are undertaken with respect to
17 retail customers on more than twelve days a year except for a
18 distribution facility which processes customer sales orders
19 by mail, telephone, or electronic means, if the distribution
20 facility also processes shipments of tangible personal property
21 to customers provided that not more than ten percent of the
22 dollar amount of goods are delivered and shipped so as to be
23 included in the gross sales of the corporation within this
24 state as provided in section 422.33, subsection 2, paragraph
25 "*b*", subparagraph (6), or section 422.33A, subsection 5,
26 paragraph "*b*", subparagraph (6), if applicable.

27 Sec. 4. Section 422.36, subsection 6, Code 2013, is amended
28 to read as follows:

29 6. A foreign corporation is not required to file a return
30 if its only activities in Iowa are the storage of goods for a
31 period of sixty consecutive days or less in a warehouse for
32 hire located in this state whereby the foreign corporation
33 transports or causes a carrier to transport such goods to that
34 warehouse and provided that none of the goods are delivered
35 or shipped so as to be included in the gross sales of the

1 corporation within this state as provided in section 422.33,
2 subsection 2, paragraph "b", subparagraph (6), or section
3 422.33A, subsection 5, paragraph "b", subparagraph (6), if
4 applicable.

5 Sec. 5. Section 422.37, subsection 2, Code 2013, is amended
6 to read as follows:

7 2. All members of the affiliated group shall join in the
8 filing of an Iowa consolidated return to the extent they are
9 subject to the tax imposed by section 422.33 or 422.33A.

10 Sec. 6. Section 422.85, Code 2013, is amended to read as
11 follows:

12 **422.85 Imposition of estimated tax.**

13 A taxpayer subject to the tax imposed by sections 422.33,
14 422.33A, and 422.60 shall make payments of estimated tax for
15 the taxable year if the amount of tax payable, less credits,
16 can reasonably be expected to be more than one thousand dollars
17 for the taxable year. For purposes of this division, "*estimated*
18 *tax*" means the amount which the taxpayer estimates to be the tax
19 due and payable under division III or V of this chapter for the
20 taxable year.

21 Sec. 7. Section 441.21, subsection 11, Code 2013, is amended
22 to read as follows:

23 11. Beginning with valuations established on or after
24 January 1, 1995, as used in this section, "*residential*
25 *property*" includes all land and buildings of multiple housing
26 cooperatives organized under chapter 499A and includes land
27 and buildings used primarily for human habitation which land
28 and buildings are owned and operated by organizations that
29 have received tax-exempt status under section 501(c)(3) of the
30 Internal Revenue Code and rental income from the property is
31 not taxed as unrelated business income under section 422.33,
32 subsection 1A, or section 422.33A, subsection 4.

33 Sec. 8. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
34 immediate importance, takes effect upon enactment.

35 Sec. 9. RETROACTIVE APPLICABILITY. This Act applies

1 retroactively to January 1, 2013, for tax years beginning on
2 or after that date.

3

EXPLANATION

4 This bill relates to the corporate income tax by creating
5 an alternative base income tax and an alternative unrelated
6 business income tax imposed at the election of the taxpayer.
7 In lieu of the regular corporate income tax and unrelated
8 business income tax computed and imposed under Code section
9 422.33, a corporation may elect to be subject to an alternative
10 base income tax and an alternative unrelated business income
11 tax as provided in the bill. An election must be made not
12 later than the due date for filing the return for a taxable
13 year, including extensions, and under rules prescribed by the
14 director. If the corporation is a member of an affiliated
15 group filing a consolidated return, the election must be
16 made by every member of the affiliated group in order to be
17 effective.

18 The base income tax of a corporation making an election
19 shall be an amount of tax equal to the corporation's base
20 income times six percent. "Base income" is defined as the
21 corporation's taxable income before the net operating loss
22 deduction as properly computed for federal income tax purposes,
23 less interest and dividends from federal securities.

24 The unrelated business income tax of an exempt corporation
25 subject to the tax on unrelated business income and making
26 an election shall be an amount equal to the corporation's
27 unrelated business income computed in accordance with the
28 Internal Revenue Code, less interest and dividends from federal
29 securities, times six percent.

30 Under the bill, both base income and unrelated business
31 income are allocated and apportioned to Iowa in the same manner
32 as net income and unrelated business income under the regular
33 corporate income tax in Code section 422.33.

34 A corporation making an election is not allowed any
35 nonrefundable or refundable tax credit for the tax year for

1 which the election is made, except the credit for estimated tax
2 paid under Code section 422.91.

3 The bill makes conforming amendments to include references
4 to new Code section 422.33A in those Code sections that
5 reference the tax imposed under Code section 422.33.

6 The bill takes effect upon enactment and applies
7 retroactively to January 1, 2013, for tax years beginning on
8 or after that date.